APPENDIX

Article I, Section 7. Due process; Equal protection; Privileges and immunities

(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of

such modification. In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979-80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this state and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

Order Re Final Approval of School Board Desegregation Plan and Discharge of Writ of Mandate.

Superior Court of the State of California for the County of Los Angeles. No. 822 854.

Mary Ellen Crawford, a minor etc., et al., Petitioners, vs. Board of Education of the City of Los Angeles, Respondent.

Better Education for Students Today; Bustop, a corporation; Charles Dreebin, et al.; Robert M. Loveland and Mary Keipp; United Teachers/Los Angeles, Intervenors.

Filed: September 10, 1981.

More than 18 years have passed since this class action was filed seeking desegregation of the schools of the Los Angeles Unified School District. All facts material to the case have changed since the case was filed in 1963. Even the nomenclature employed has become outdated, misleading and harmful to innocent children. Educational quality has been displaced as the prime focus of public attention. There must be a commitment to excellence in education to fulfill the expectations of all children in the District.

A case that involves the education of children must be resolved. There must be finality in the law so that the people may plan their everyday lives to conform to the requirements of the law.

The time has come for common sense to return to the treatment of desegregation in the public schools. The framework of law is provided by the guidelines given this court in the decisions in this matter rendered by the Supreme Court and the Court of Appeal and each of them.[1]

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[1]*Crawford v. Board of Education*, 17 C.3d 280 (June, 1976), hereinafter referred to as Crawford I, and 113 Cal.App.3d 633 (Dec. 1980), hereinafter referred to as Crawford II.

These decisions place a duty upon the trial court to oversee a process of desegregation planning wherein the Board of Education elected by the people is the primary planner.[2] The law precludes judicial intervention in the planning and/or implementation process "even if [the Court] believes that alternative desegregation techniques may produce more rapid desegregation" (*Crawford* I at p. 306), so long as a plan developed by the elected Board of Education utilizes reasonably feasible steps to produce "meaningful progress in light of present conditions."[3] The Board is under a constitutional duty to undertake reasonably feasible steps to alleviate school segregation, regardless of cause.[4]

The respondent Board has submitted to the court a "Plan for Desegregation," dated July 2, 1981. After review and consideration of the plan submitted and the entire record, and each of them, the Court has determined that certain principles should govern the operation of the plan as set out below. The function of a trial court is to apply the law. This court will follow the law, recognizing its responsibility to protect all the children in the District. The law imposes on

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[2]*Crawford I*, *supra*, at p. 305. The Supreme Court said: "Under these circumstances, local school boards should clearly have the initial and primary responsibility for choosing between these alternative methods."

[3]*Crawford II*, *supra*, at p. 649. The Court of Appeal quoted the Supreme Court as follows: " '. . . *so long as a local school board initiates and implements reasonably feasible steps* to alleviate school segregation in its district, and so long as such steps produce meaningful progress [4] . . . *we do not believe the judiciary should intervene in the . . . process . . . Reliance on the judgment of local school boards in choosing between alternative desegregation strategies holds society's best hope for the formulation and implementation of desegregation plans* which will actually achieve the ultimate constitutional objective of providing minority students with the equal opportunities potentially available from an integrated education.' (*Crawford I*, *supra*, at pp. 305-306.)" The Court of Appeal stated, "We interpret that phrase to mean *meaningful progress in light of present conditions. A genuine opportunity to show such progress under a plan of its own has not yet been afforded the Board.*" (fn. 4) (Emphasis supplied)

[4]*Crawford I*, *supra*, pp. 301-302, *Crawford* II, p. 651.

the trial court "a duty to supervise the preparation and implementation of a reasonably feasible desegregation plan."[5]

The Court, having reviewed and considered the entire record in this matter, and having considered the various memoranda, evidentiary, and informational matters submitted by the parties, and further having considered argument of all counsel and all of the above, and each of them, makes the following order:

1. The District may proceed to construct new schools and to build additions to existing schools as overcrowding and other needs require.
2. The definition of groups used in the plan is ordered changed forthwith to end the use of terminology classifying Black, Hispanic, and Asian children, as well as those of other non-Anglo ancestries, as "Minority" students.

   This usage is factually incorrect. These students in fact comprise the vast majority of the school population.[6]

   To label a group a minority when it is a majority is harmful to those children. Facts, as opposed to labels, are not harmful to children. Society expects and demands factual representations by educators and elected School Boards.

   It is the duty of the Board and the District, and each of them, to use factual descriptions. They must reflect the current composition of the student

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[5]*Crawford II, supra*, p. 651.

[6]*Crawford II, supra*, p. 642, fn. 2: "In October 1980 the composition of the student population was White 23.7 percent, Black 23.3 percent, Hispanic 45.3 percent, Oriental and other 7.7 percent. The number of white pupils in grades K-3 had fallen to 16.1 percent." Compare the above with the outdated statistical composition upon which the case was first argued: "In 1968 the racial and ethnic composition of the students was 53.6 percent white, 22.6 percent Negro, 20 percent Hispanic, and 3.8 percent Oriental and other." *Crawford II, supra*, p. 642 (fn. 2).

population for the applicable school year. The Board and the District, and each of them, are ordered forthwith to use words that honestly reflect the facts as they exist in the current school year. The Court will refer to the facts as they are in the real world.

The facts are that students previously called the "minority" are actually the "majority." Therefore, these students will hereinafter be referred to as "Black", "Hispanic", or "Asian and Other", as appropriate. History does change, and when it does it must be reported accurately.

The use of the term RIMS (Racially Isolated Minority Schools) shall cease forthwith. Use of this label is deceptive, demeaning and inaccurate. The District is ordered to use a neutral term in its place. The neutral term shall not utilize the word "minority."

The old labels are harmful to the self esteem of the very children this action purports to protect.[7]

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[7]Crawford II, p. 648. The Court of Appeal quoted the Supreme Court as follows: "In a school district in which "minority" students significantly outnumber "majority" students, a school whose racial composition might in some other district make it a "segregated school" may not warrant that legal characterization. (fn. 1) (Crawford, p. 304, fn. 16)." The Court of Appeal went on to say: "That of course is the existing situation in the District, where white students are now a minority in that they comprise 23.7 percent of the total student population and 16.1 percent of grades to K-3. Yet for the purpose of applying the legal principles related to school segregation, whites are still designated as the "majority" and segregation is viewed in terms of the minorities, or any one of them, being isolated from whites. (fn. 3)" The court said further, in footnote 3, "That approach appears to be a hangover from the historic situation in some areas in the country which produced the background against which the decision in *Brown v. Board of Education, supra,* was rendered. The wisdom of, or the need to, perpetuate that approach here is questionable since, when considered in terms of the ethnic composition of the Los Angeles Unified School District, it appears to denigrate the dignity and capability of the minority students. In effect, it implies that ethnic "minority" children, even when they constitute a numerical majority and thus do not suffer the psychological trauma of deliberate isolation, cannot achieve best results except in the presence of a token number of white students."

3. All new elementary and junior high school Magnet schools and programs established under this plan will be located in the areas of predominantly Hispanic, Black, or Asian and Other enrollment.
4. The pupil-teacher ratio in predominantly Hispanic, Black, or Asian and Other schools operated under this plan must be maintained at 27:1 or less in order to enrich the opportunities for students.
5. All Hispanic, Black, Asian and Other pupils who volunteer are entitled to access to all programs involving the voluntary transfer of students.
6. The Board of Education is ordered to publicize the transfer options open to pupils in areas where most Hispanic, Black, or Asian and Other families reside.
7. The District must issue annual reports on educational conditions and achievement in predominantly Hispanic, Black, or Asian schools and distribute these reports to parents and students and each of them.
8. The share of desegregation expenditures allocated to payment of administrative expenses shall not exceed the administrative expense ratio characteristic of the District's overall budget.
9. The District shall prepare, and make public on or before July 15, 1983, a full report of the measures taken and results achieved under its Plan. The report shall focus on whether the Plan has achieved meaningful progress toward the goals set forth in *Crawford* I and II, and each of them, within the constraints exerted by present conditions.

A genuine opportunity must be given to the Board to show progress *under present conditions*. The Court finds that the Board has embarked on a course of action that under present conditions seeks to realize the hope of society and

alleviate the various harms to the children in the District. After the balancing and reconciliation of many competing values, the Court finds that the Plan, as ordered changed by the Court, will protect the rights of all students and meet Constitutional standards.

The time has come to end these proceedings. There must be finality in the law. The mandate to take reasonably feasible steps to desegregate the District is clear. The Board remains subject to its constitutional duty under State law to undertake reasonably feasible steps to alleviate school segregation regardless of cause. There are matters which deeply concern the Court in respect to the instant litigation. However these concerns should not be made the springboard for examination of procedures which implement the new Plan. The underlying issues have been resolved. Judicial intervention is no longer appropriate. The people, who are the ultimate authority, must look to the School Board, as their elected representatives, to continue to discharge its duty under the law.

The Court finds that respondent Board of Education has satisfied the mandate of the Court issued May 19, 1970, interpreted in light of the opinions expressed by the Supreme Court in *Crawford v. Board of Education* (Crawford I), *supra*, and the Court of Appeal in *Crawford v. Board of Education* (Crawford II), *supra*, and each of them, and, so finding, orders the writ discharged.

All outstanding Orders of the Superior Court in this matter, save the Minute Orders re Court Monitors, are vacated, effective this date. The Court retains jurisdiction for the sole purpose of determining the matter of attorneys' fees.

September 10, 1981

/s/ Robert B. Lopez
Judge Robert B. Lopez